

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: ) Chapter 11  
 )  
EASTERN LIVESTOCK CO., LLC, et al., ) Case No. 10-93904-BHL-11  
 )  
Debtors. )

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**EMERGENCY MOTION TO LIMIT MAILING OF PLAN AND DISCLOSURE  
STATEMENT TO CREDITORS AND CONTRACT COUNTERPARTIES**

James A. Knauer, as chapter 11 trustee (the "Trustee") for Eastern Livestock Co., LLC (the "Debtor") in the above captioned case ("Chapter 11 Case") seeks the entry of an order under 11 U.S.C. § 105 and Rules 2002(m) and 3017(d) of the Federal Rules of Bankruptcy Procedure ("FRBP"), and Rule B-3018-1(a) of the local rules of the United States Bankruptcy Court for the Southern District of Indiana (the "LBR") limiting mailing of the "Disclosure Statement"<sup>1</sup> and the order approving same, and the "Plan"<sup>2</sup> and the ballot for voting on the Plan to (a) persons who have filed a proof of claim in the Chapter 11 Case or are listed as having a claim on the Debtor's filed Schedule of Assets and Liabilities and the claim is not marked contingent, disputed, or unliquidated, (b) persons who are counterparties to executory contracts or unexpired leases, (c) the office of the United States Trustee for the Southern District of Indiana; (d) the Internal Revenue Service, and (e) all other parties who have filed an appearance or requested notice in the Chapter 11 Case. In support of this request, the Trustee says:

1. FRBP 3017(d) states in relevant part that "unless otherwise ordered by the Court" upon approval of the disclosure statement, copies of the disclosure statement and plan, and notice of the voting deadline shall be mailed to "all creditors and equity security holders" and a "ballot .

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<sup>1</sup> See *First Amended Disclosure Statement For Trustee's First Amended Chapter 11 Plan Of Liquidation* [Docket No. 1489].

<sup>2</sup> See *Trustee's First Amended Chapter 11 Plan Of Liquidation* [Docket No. 1490].

. . shall be mailed to all creditors and equity security holders entitled to vote on the plan." LBR 3018-1(a) states in relevant part that "unless otherwise ordered by the Court" upon approval of a disclosure statement, copies of the disclosure statement and plan, a ballot and notice of the confirmation hearing shall be served on "all creditors and parties in interest."

2. To ensure that notice of the Chapter 11 Case was widely distributed and due to the disarray of certain of the Debtor's books and records at the beginning of this Chapter 11 Case, the Trustee included all potential interested parties on the creditor matrix and that creditor matrix remains at about 2,565 entries.

3. Bar dates for filing proofs of claim by non-governmental and governmental creditors were established by order of this Court as May 2, 2011 and June 30, 2011. Both bar dates have passed and 570 potential creditors filed proofs of claim in this Chapter 11 Case.<sup>3</sup>

4. Only persons that are creditors<sup>4</sup> are eligible to vote on the Plan. The differential in cost to the estate of sending copies of the Disclosure Statement, Plan and ballot to creditors that filed proofs of claim ("Creditors"), contract counterparties ("Contract Parties"), the Office of the U.S. Trustee, the IRS, and the persons that filed an appearance or requested notice in this Chapter 11 Case ("Notice Parties" and collectively with the U.S. Trustee, the IRS, the Contract Parties and the Creditors, the "Plan Voting Parties") is about \$30,000.

5. The Trustee would propose mailing to those persons on the creditor matrix that are not Plan Voting Parties, a short notice ("Notice of Plan Mailing and Confirmation Hearing") that states substantially the following: (a) the Disclosure Statement, Plan, Ballot, and the order approving the Disclosure Statement ("Solicitation Packet") have been mailed to creditors entitled

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<sup>3</sup> There are 650 timely filed claims against Debtor's estate, including claims that were asserted against Debtor's GIPSA bond for which the Trustee filed a proof of claim to preserve such claimant's rights to receive a recovery from the estate. However, at least 80 of the 650 timely-filed claims are duplicate claims, reducing the creditor pool to 570 potential creditors.

<sup>4</sup> Interest holders of the Debtor are not eligible to vote under the Plan.

to vote on the Plan; (b) the date set for the confirmation hearing on the Plan and the dates set for voting on and objecting to the Plan; (c) that the person receiving this notice is not identified as a creditor entitled to vote on the Plan; (d) who to contact if the person believes he/she/it is entitled to vote on the Plan and did not receive a Solicitation Packet or if the person would like to receive a copy of the Plan and Disclosure Statement.

6. The Trustee believes that this procedure would not cause harm to any parties in the Chapter 11 Case, comports with the Bankruptcy Code and the Bankruptcy Rules, and would result in significant cost savings to the estate.

Wherefore, the Trustee requests that the Court enter an order:

A. Authorizing the Trustee to send copies of the Disclosure Statement, the order approving the Disclosure Statement, the Plan, a Ballot, notice of confirmation hearing and relevant voting and objecting deadlines only to (i) the office of the United States Trustee for the Southern District of Indiana; (ii) the Internal Revenue Service; (iii) all parties who have filed a proof of claim in this case; (iv) executory contract counterparties; and (v) any person who has filed an appearance or requested notice in the Chapter 11 Case;

B. Authorizing the Trustee to send the Notice of Plan Mailing and Confirmation Hearing to those persons on the creditor matrix that are not Plan Voting Parties; and

C. Granting the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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### **CERTIFICATE OF SERVICE**

I hereby certify that on November 1, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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